

Message Text

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ACTION ARA-20

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FM AMEMBASSY MANAGUA

TO SECSTATE WASHDC 4857

INFO AMEMBASSY GUATEMALA

AMEMBASSY SAN JOSE

AMEMBASSY TEGUCIGALPA

AMEMBASSY SAN SALVADOR

USCINCSO

C O N F I D E N T I A L MANAGUA 3185

USCINCSO FOR POLAD

E. O. 11652: GDS

TAGS: PGOV, PINT, NU

SUBJECT: ELECTIONS 1974: TWENTY-SEVEN SENTENCED

REF: MANAGUA 3080

1. ON AUGUST 13, THE TWENTY-SEVEN OPPOSITION LEADERS, WHO WERE CHARGED WITH PROCLAIMING ABSTENTION FROM NATIONAL ELECTIONS CURRENTLY IN PROCESS, WERE SENTENCED. AS ANTICIPATED (MANAGUA 3080), THEIR RIGHTS AS CITIZENS WERE SUSPENDED UNDER ARTICLE 35 OF THE CONSTITUTION. EXACT MEANING OF THIS SENTENCE IS UNCLEAR, HOWEVER, MINISTER OF GOVERNMENT LEANDRO MARIN INFORMED EMBASSY OFFICER THAT BROAD INTERPRETATION OF RIGHTS TO BE SUSPENDED WILL BE SOUGH. POLICE COURT WHICH ISSUED SENTENCE IS SEEKING AN OPINION FROM SUPREME COURT TO SPECIFY EXACTLY WHAT RIGHTS ARE TO BE EFFECTED. CERTAIN TO BE LIFTED ARE THOSE LISTED UNDER ARTICLE 33 OF THE CONSTITUTION; THESE INCLUDE RIGHTS (1) TO HOLD PUBLIC OFFICE, (2) TO ASSEMBLE, (3) TO ASSOCIATE AND (4) TO MAKS PETITIONS IN THE MANNER PRESCRIBED BY LAW. THE SUPREME
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COURT WILL PRESUMEDLY SET FORTH EXACTLY HOW THESE RIGHTS ARE TO

BE DEFINED FOR PURPOSES OF SUSPENSION. WHAT FOR INSTANCE CONSTITUTES A PETITION? UNDER BROADEST DEFINITION APPLICATION FOR A DRIVER'S LICENSE COULD BE INTERPRETED AS FALLING UNDER THIS CATEGORY.

2. CONGRESSIONAL LIBERAL PARTY LEADER CORNELIO HUECK GLEEFULLY OBSERVED THAT THE SENTENCE WOULD REDUCE THE TWENTY-SEVEN, SOME OF WHOM HAVE CONSIDERABLE BUSINESS HOLDINGS, TO THE STATUS OF MENTAL INCOMPETENTS WHO WILL HAVE TO APPOINT EXECUTORS TO ADMINISTER THEIR AFFAIRS. MINISTER MARIN WOULD NOT GO THIS FAR BUT DID OPINE THAT AMONG RIGHTS TO BE SUSPENDED WOULD BE THE RIGHT TO TRAVEL. IN ADDITION, SINCE ABOUT HALF OF THE TWENTY-SEVEN ARE ATTORNEYS AND EARN A LARGE PART OF THEIR INCOME FROM PERFORMING NOTARIAL SERVICES, LOSS OF THE RIGHT TO HOLD PUBLIC OFFICE--INCLUDING NOTARY PUBLICS--WILL MEAN CONSIDERABLE FINANCIAL SACRIFICE TO THEM.

3. MARIN ALSO INFORMED EMBASSY THAT SUSPENSION OF RIGHTS WOULD BE IN EFFECT FOR SIX MONTHS. AFTER SIX MONTHS, HE STATED, THE TWENTY-SEVEN WILL BE ABLE TO PETITION THE PRESIDENT (WHO WILL BY THEN BE GENERAL ANASTASIO SOMOZA), FOR RESTORATION OF THEIR RIGHTS. STRANGELY, THE TEXT OF THE SENTENCE ITSELF, AS PUBLISHED AUGUST 14 IN SOMOZA OWNED NEWSPAPER NOVEDADES, MADE NO MENTION OF THE DURATION OF THE PENALTY. EXPLAINING THIS, MARIN SAID NEW LEGISLATION WOULD BE PRESENTED, PROBABLY SOMETIME THIS WEEK, WHICH WILL PROVIDE FOR A RELIEF PROCEDURE WHICH MAY BE FOLLOWED ONLY AFTER THE SENTENCE HAS BEEN IN EFFECT SIX MONTHS. SUCH LEGISLATION IS NECESSARY SINCE ARTICLE 35 OF THE CONSTITUTION UNDER WHICH THE TWENTY-SEVEN WERE SENTENCED STIPULATED THAT THE LAW WILL REGULATE THE MANNER IN WHICH THE EXERCISE OF CITIZENSHIP MAY BE RE-ESTABLISHED END QUOTE AND NO SUCH REGULATION PRESENTLY EXISTS.

4. WITHIN THE REQUIRED TWENTY-FOUR HOURS, THE TWENTY-SEVEN WERE BUSY AUGUST 14 APPEALING THE SENTENCE (ON THE GROUNDS THAT THE POLICE JUDGE HAS NO LEGAL AUTHORITY TO MAKE SUCH A RULING) TO THE POLITICAL CHIEF (JEFE POLITICO) OF MANAGUA, AN APPOINTEE OF THE MINISTRY OF GOVERNMENT. IF THE POLITICAL CHIEF CONFIRMS THE POLICE JUDGE'S RULING, AS HE ALMOST ASSUREDLY WILL, THEIR LAST RECOURSE WILL BE TO SEEK AN INJUNCTION (AMPARO) FROM THE

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SUPREME COURT AGAINST APPLYING THE SENTENCE. HOW LONG THIS APPEAL PROCEDURE WILL POSTPONE IMPLEMENTATION OF THE SENTENCE IS UNCERTAIN. ALTHOUGH THE COURTS COULD DELAY PAST THE SEPTEMBER 1 ELECTION DAY, THE FACT THAT THE SENTENCE WAS MADE AT THIS TIME INDICATES THAT THE GON WILL PUSH FOR ACTION BEFORE THEN.

5. COMMENT: THE MOST IMMEDIATE POLITICAL EFFECT OF THE SENTENCE WILL COME FROM LOSS OF THE RIGHT TO ASSEMBLE. IT WILL BE

EXTREMELY DIFFICULT FOR THE TWENTY-SEVEN, WHO INCLUDE THE MOST VOCAL OPPONENTS TO GENERAL SOMOZA'S CONTINUANCE IN POWER, COMPLETELY TO ABSTAIN FROM THEIR POLITICAL ACTIVITIES WHICH OF NECESSITY INVOLVE THEIR GETTING TOGETHER. IF, AS APPEARS LIKELY, THE GON STRICTLY ENFORCES THE SUSPENSION OF RIGHTS, THE POSSIBILITY OF A FURTHER CONFRONTATION WITH THE OPPOSITION IS THEREFORE GREATLY HEIGHTENED. BY DEFYING THE SENTENCE, THE TWENTY-SEVEN MAY YET PROVOKE THEIR MARTYRDOM THROUGH IMPRISONMENT. THE OPTION OF PLACIDLY ABIDING BY THE SUSPENSION WOULD NEUTRALIZE THEM AS AN EFFECTIVE POLITICAL FORCE DURING THE NEXT SIX MONTHS. THERE HAS BEEN LITTLE IN THE RECENT POLITICAL BEHAVIOR OF THE TWENTY-SEVEN TO INDICATE THAT WE CAN EXPECT SUCH PLACIDITY. LEANDRO MARIN HIMSELF FELT THAT WHAT THE TWENTY-SEVEN WERE REALLY SEEKING OUT OF THE ABSTENTION TRIAL WAS TO GET THEMSELVES ARRESTED. THE QUESTION NOW IS HOW LONG WILL THE GON BE ABLE TO DENY THEM THAT PRIVILEGE UNDER THE SUSPENSION OF RIGHTS SENTENCE.

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